



EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. KBB 2005 - 67

EMERGENCY SUSPENSION OF PRESCRIPTION, PEREMPTION AND OTHER LEGAL DEADLINES

- WHEREAS,** the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other nature or man-made causes;
- WHEREAS,** Hurricane Katrina and its aftermath, and Hurricane Rita struck the state of Louisiana causing severe damage and flooding to the southern part of the state, which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;
- WHEREAS,** pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency/disaster was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 53 KBB 2005, as amended by Proclamation No. 60 KBB 2005;
- WHEREAS,** as a direct consequence of these disasters and evacuations, attorneys throughout the state had clients whom they could not contact due to the client's evacuation and similarly, there were clients who could not contact their counsel due to counsel's evacuation;
- WHEREAS,** in addition to challenges resulting from displacement and access to office and personal files and records, the storms and their aftermaths resulted in extreme challenges to communication networks and disruption of mail service;
- WHEREAS,** Hurricanes Katrina and Rita also rendered several court houses temporarily inoperable and/or not fit for occupancy;
- WHEREAS,** La. Constitution Art. I, Section 22 provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;
- WHEREAS,** the destruction and disruption of services and infrastructure to our system of justice caused by Hurricanes Katrina and Rita would have had a profound impact on the basic rights to an untold number of persons unless action was taken to suspend the effects of the tolling of legal delays during the period of these emergencies;
- WHEREAS,** based on the above, on September 6, 2005, Executive Order No. KBB 2005-32, suspending deadlines in legal proceedings, was issued at the request of the Louisiana State Bar Association, the Louisiana Trial Lawyers Association, and the Louisiana Association of Defense Counsel, and in the interest of fairness and justice for all parties;
- WHEREAS,** on September 23, 2005, Executive Order No. KBB 2005-32, was amended to extend the suspension for an additional thirty days and to recognize the

Louisiana Supreme Court's authority to lift the suspension, in whole or in part, by Order;

WHEREAS, on October 3, 2005, the Louisiana Supreme Court issued a Resolution and Temporary Rule that provided a procedure to have a judge consider allowing legal proceedings to proceed where justice and equity mandate the shortening or lifting of the suspension;

WHEREAS, it has been announced that the Louisiana Legislature will be called into a special session from November 6, 2005, to November 18, 2005, which will be the first opportunity for legislative action on these issues;

WHEREAS, as the immediacy of the emergency passes and as the state begins to move toward a recovery and rebuilding phase, it is necessary to provide notice and begin the process of returning legal affairs to their normal processes as soon as practical in an effort to restore commerce; and

WHEREAS, the attorney general will issue, to judges and Justice of the Peace Courts in the affected areas, recommended eviction guidelines according to current law but taking into consideration the emergency circumstances that occurred over the last several weeks, so that as these proceedings begin in the parishes affected by Hurricane Katrina, the authorities have legal guidance as to the rights and privileges of both the lessees and lessors;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 1 of Executive Order No. KBB 2005-32, issued on September 6, 2005 as amended by Executive Order No. KBB 2005-48, issued on September 23, 2005, is hereby amended as follows:

- A. Liberative prescriptive and preemptive periods are hereby suspended statewide until at least Friday, November 25, 2005.
- B. Except as provided in Subsection A of this Section, the suspension of deadlines in legal proceedings, as provided in Executive Order No. KBB 2005-32, as amended by Executive Order No. KBB 2005-48, in all courts, administrative agencies, and boards unaffected by Hurricane Rita, as defined as those parishes not identified in Subsection C of Section 1 of this Order, shall end as of Tuesday, October 25, 2005.
- C. Deadlines in legal proceedings in courts, administrative agencies, and boards affected by Hurricane Rita, defined as the parishes of Calcasieu, Cameron, Jefferson Davis, and Vermilion are hereby suspended until at least Friday, November 25, 2005, including but not limited to, non-constitutionally mandated deadlines in criminal proceeding and any such deadlines as follows:
 - 1. Louisiana Civil Code;
 - 2. Louisiana Code of Civil Procedure;
 - 3. La. R.S. Title 9, Civil Code Ancillaries;
 - 4. La. R.S. Title 13, Courts and Judicial Procedure;
 - 5. La. R.S. Title 23, Chapter 10, Workers' Compensation;
 - 6. La. R.S. Title 40, Chapter 5 Part XXI-A, Malpractice Liability for State Services; and
 - 7. La. R.S. Title 40, Chapter 5, Part XXIII, Medical Malpractice.

- D. Paragraph C of this Section shall not be interpreted so as to prohibit the parties from proceeding in accordance with the Louisiana Supreme Court's Resolution and Temporary Rules issued on October 3, 2005, as amended, including but not limited to, landlord-tenant disputes, evictions proceedings, and lease disputes regarding immovable property, provided such proceedings are carried out in the manner provided for by the Louisiana Supreme Court Resolution and Temporary Rule, as amended.
- E. Nothing in Subsection C of this Section shall prohibit an owner of immovable property from reclaiming leased property if abandoned as provided for by law, or entering leased property to make necessary repairs as provided for by law.

SECTION 2:

This Order is effective upon signature and shall remain in effect until Friday, November 25, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of October, 2005.

/S/ Kathleen Babineaux Blanco
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/S/ Al Ater
SECRETARY OF STATE